



Audit Report



OIG-14-036

Treasury Made Progress to Stand Up the Federal Insurance Office, But Missed Reporting Deadlines

May 14, 2014

**Office of
Inspector General**

Department of the Treasury

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Abbreviations and Acronyms

DO	Departmental Offices, Department of the Treasury
FACI	Federal Advisory Committee on Insurance
FIO	Federal Insurance Office
FSOC	Financial Stability Oversight Council
IAIS	International Association of Insurance Supervisors
JAMES	Joint Audit Management Enterprise System
NAIC	National Association of Insurance Commissioners
OMB	Office of Management and Budget
OIG	Office of Inspector General

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May 14, 2014

Michael T. McRaith
Director, Federal Insurance Office

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) created the Federal Insurance Office (FIO) within the Department of the Treasury (Treasury) and authorized FIO to perform a range of functions, including to monitor all aspects of the insurance sector, coordinate and develop Federal policy on international insurance regulatory matters, and assist the Secretary of the Treasury in negotiating certain international agreements. This report presents the results of our audit of Treasury's activities to establish FIO as of November 2013.

Our audit objective was to evaluate the status and effectiveness of Treasury's process to establish FIO in a manner that enables it to perform its functions. To accomplish our objective, we reviewed Dodd-Frank, researched available studies for examples of best practices and lessons learned, interviewed Treasury personnel involved with establishing FIO along with FIO management and staff, reviewed documentation regarding FIO's standup, and evaluated FIO's compliance with Dodd-Frank reporting requirements. We conducted our field work from May 2012 through November 2013. Appendix 1 contains a more detailed description of our objective, scope, and methodology.

In brief, since its establishment in July 2010, FIO has engaged in numerous activities. Examples include, it represented U.S. interests related to international insurance matters, worked to establish strategic relationships within the insurance sector, staffed the office, and drafted legislatively required reports. However, four of the five reports required by Dodd-Frank were completed well after their due dates and the other has not yet been completed. In addition, FIO has not documented a strategy for accomplishing its legislative functions, or developed a comprehensive implementation

plan to direct the development of operational processes and ensure critical deliverables are met.

We are recommending that FIO (1) ensure that the legislatively required report that is past due is issued with deliberate speed; (2) finalize a plan for achieving its functions, and develop a comprehensive plan to direct the development of its operational processes; (3) provide for maintaining a record of all significant activities performed, decisions made, and actions taken; and (4) determine appropriate performance measures to communicate/demonstrate its accomplishments.

In a written response, which is included as appendix 2, management agreed with the recommendations. FIO is working to complete the report on the global reinsurance market and to improve the timeliness of future reports. FIO will document its priorities and implementation plan, provide for record keeping, and develop performance measures. We consider FIO's commitment to these actions by FIO as responsive to our recommendations. However, FIO will need to record the estimated dates for completing its planned corrective actions in the Joint Audit Management Enterprise System (JAMES), Treasury's audit recommendation tracking system.

Background

Title V, subtitle A of Dodd-Frank created FIO and authorizes FIO to perform a range of functions subject to the discretion and the direction of the Secretary of the Treasury. Among its functions, FIO may coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the U.S. in the International Association of Insurance Supervisors (IAIS).¹ Dodd-Frank also authorizes FIO to monitor all aspects of the insurance sector including: identifying issues or gaps

¹ Established in 1994, IAIS represents insurance regulators and supervisors of more than 200 jurisdictions. The association's objectives are to promote effective and globally consistent supervision of the insurance industry to develop and maintain fair, safe, and stable insurance markets for the benefit and protection of policyholders and to contribute to global financial stability. Although FIO has authority to represent the U.S. Government internationally at IAIS, state insurance regulators present the views of the insurance regulatory community internationally, either directly or through the National Association of Insurance Commissioners.

in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the U.S. financial system; assessing the accessibility and affordability of insurance products to minorities, low-and moderate-income persons, and underserved communities; and coordinating federal policy in the insurance sector.

The U.S. insurance sector is primarily regulated by the states. Dodd-Frank authorizes FIO to receive and collect data and information on the insurance sector and enter into information sharing agreements, including with state insurance regulators. If information that FIO reasonably requires to carry out its functions is not readily available from public sources or regulatory agencies, Dodd-Frank gives FIO the authority to require insurers to submit such information to FIO. The FIO Director has the power to issue subpoenas, as needed, to compel compliance with information requests.

FIO is also authorized to consult with state insurance regulators regarding insurance matters of national importance as well as prudential insurance matters of international importance. FIO's authority extends to all lines of insurance with the exception of health insurance, long-term care insurance (except that included with life or annuity insurance components), and crop insurance.

According to FIO management, Treasury is keenly aware of the importance of the insurance sector to the economy, both as a risk transfer mechanism for individuals, families, and businesses, and as an important component in the capital markets. The National Association of Insurance Commissioners (NAIC)² reported, at the end of 2012, that the U.S. insurance industry's total invested assets were approximately \$5.4 trillion dollars. Of this, 65 percent, or \$3.5 trillion, were held by the life insurance sector and 30 percent, or \$1.6 trillion, were held by the property and casualty insurance sector. In addition, the U.S. insurance industry's net premiums written for these sectors totaled \$1.1 trillion in 2012,

² Created in 1871, NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer reviews, and coordinate their regulatory oversight.

which represented approximately 7 percent of the gross domestic product in the U.S.

Excluding health insurance, the U.S. insurance industry writes approximately 27 percent of global premium volume, a significant concentration of revenue for internationally-active insurance groups. The development of middle classes and the increased market sophistication in many emerging economies emphasize the importance of appropriate international regulatory standards to serve as a platform for U.S.-based insurers to participate in non-U.S. markets. According to FIO management, the creation of FIO presents the U.S. the opportunity to have a central, federal point of contact for the international insurance sector and for insurance supervisors from around the world.

Results of Audit

Treasury Has Made Progress to Stand Up FIO But It Has Missed Reporting Deadlines

Since its establishment in July 2010, FIO has engaged in numerous activities. As examples, it has represented U.S. interests related to international insurance matters, worked to establish strategic relationships within the insurance industry, staffed the office, and drafted legislatively required reports. However, four of the five reports required by Dodd-Frank were completed well after their initial due dates and the other has not yet been completed. FIO also has not documented a strategy for achieving its mission; or developed a comprehensive implementation plan to direct the development of critical deliverables, infrastructure, and operational processes.

FIO's Insurance Industry Activity

According to Treasury officials, FIO's primary operational focus to date has been on representing U.S. interests in international insurance matters and working to establish strategic relationships within the insurance industry. As such, FIO joined IAIS in October 2011 and has been working with IAIS to develop a common framework for the supervision of internationally active insurance groups. In connection with its work with IAIS, FIO officials serve

on numerous committees and collaborate with insurance supervisors throughout the world, dealing with issues ranging from data collection to the identification of globally significant insurance companies. FIO was a leader in developing the European Union-U.S. Insurance Regulatory Dialogue (EU-U.S. Dialogue). This EU-U.S. Dialogue is expected to lead to improved regulatory compatibility between the European Union and the U.S.

Furthermore, as an example of bilateral engagements with many countries, FIO participated in the U.S.–China Strategic and Economic Dialogue in Beijing (S + ED), which was the first opportunity for FIO to interact with the Chinese Insurance Regulatory Commission. According to FIO management, the S + ED can foster a cooperative bilateral relationship leading to improved supervisory balance and competitive opportunities for U.S-based insurers.

FIO management also told us that FIO is building relationships within the domestic insurance sector. For example, FIO coordinates with the NAIC, has assembled and interacted with the Federal Advisory Committee on Insurance (FACI), serves on a U.S. Department of Veterans Affairs advisory committee related to servicemember life insurance, and has provided a forum for the discussion of insurance topics within the federal government and the insurance sector.³ Management further stated that FIO has also been active in its role as a non-voting member of the Financial Stability Oversight Council (FSOC).⁴

We noted that FIO was unable to provide formal documentation to support the extent of its involvement in these activities. However, meeting minutes of groups FIO participates in, such as the FACI and FSOC, reflect that FIO does participate in their respective activities. We believe that FIO needs to maintain a more complete record of the material activities performed by the office and their

³ Chartered in August 2011, FACI is responsible for providing advice and recommendations directly to FIO to assist it in carrying out its duties and authorities. FACI was formed by the authority under Title 31 (Money and Finance), Subtitle I (General), Chapter 3 (Department of Treasury), Section 313(h) (Federal Insurance Office) of the U.S. Code.

⁴ Established by Dodd-Frank, FSOC is charged with identifying threats to the financial stability of the U.S., promoting market discipline, and responding to emerging risks to the financial stability of the U.S. financial system.

results to provide for greater transparency and to conform to Treasury's record policy.⁵

FIO's Administrative Functions

FIO was established within the Office of Financial Institutions under Treasury's Office of Domestic Finance. As part of Treasury's Departmental Offices (DO), FIO uses the DO physical and information systems infrastructure to perform and secure its work; and DO administrative processes, policies, and procedures for human resources, legal and rulemaking, procurement, financial management, and budgetary functions. FIO's budget is contained within, and managed as part of, the overall budget for the Office of Domestic Finance. FIO's cumulative expenditures for fiscal years 2011 and 2012 totaled approximately \$1.2 million of which 84 percent was allocable to personnel costs. FIO officials told us that expenditures for fiscal year 2013 increased to approximately \$2.1 million of which 88 percent was personnel costs.

A Treasury official told us that since FIO's budget is not a separate budgetary line item; no formal performance measures have been developed to evaluate the effectiveness of its operations. FIO is a component of an agency (Treasury) as defined in Office of Management and Budget (OMB) Circular A-11, *Preparation, Submission, and Execution of the Budget*, Part 6, *Strategic Plans, Annual Performance Plans, Performance Reviews, and Annual Program Performance Reports*.⁶ Accordingly, FIO is not required to independently comply with the specific agency requirements detailed in the circular. However, OMB Circular A-11 calls for a performance framework that cascades down the organization to all agency managers and team leaders. It states that agencies are

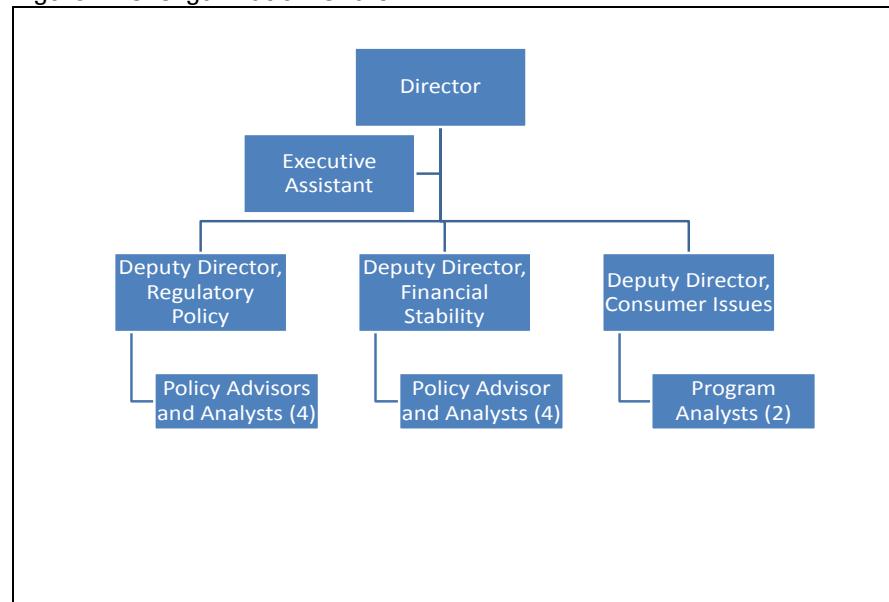
⁵ Treasury's documentation requirements are established in Treasury Directive Publication 80-05, "Records and Information Management Manual" (June 2002), which states that all program officials shall create and maintain adequate and proper documentation of the program for which they are responsible. This means a record of the conduct of government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of their office and to protect the legal and financial interest of the government and of persons directly affected by the activities of their office.

⁶ OMB Circular No. A-11, Part 6 is guidance that lays out the path for implementing the Federal Government's performance management framework.

expected to work with their components to identify priorities, goals, performance indicators, and other indicators relative to the mission and strategic objectives of the agency. In line with OMB Circular A-11 and as a best practice, we believe that it is important for FIO to develop and implement performance measures to more effectively communicate/demonstrate its accomplishments.

Under Dodd-Frank, the position of the FIO Director is a career reserved position in the Senior Executive Service and is appointed by the Secretary of the Treasury. The first (and current) FIO Director was appointed by former Secretary Geithner in June 2011 and, as mentioned above, is organizationally situated within the Office of Domestic Finance. As of November 2013, FIO's staff level is 13 full-time equivalents (FTE), with approval for up to 15 FTEs.

Figure: FIO Organization Chart



Source: FIO

A Treasury official told us that the complement of 15 was determined by using the human capital planning approach which identified: (1) the purposes of the office, (2) the skills required for the office, and (3) the skills already available. FIO was unable to provide us with a copy of this analysis. According to this official, once FIO reaches 15 FTEs, an assessment will be made to further evaluate the sufficiency of the staff size.

FIO Missed Reporting Deadlines

Dodd-Frank required FIO to issue five reports, of which two reports are an annual requirement and three reports were a one-time requirement. Four of the required reports, including both initial annual reports, were completed well after their due dates, and the other one has not yet been completed. The five required reports are as follows.

- An annual report to the President and Congress on action taken by FIO regarding preemption of inconsistent state insurance measures – the first report was due September 30, 2011.⁷

Status: On December 20, 2012, 15 months after it was initially due, FIO submitted the first annual report to the President and Congress on actions taken regarding preemption of inconsistent state insurance measures. We noted that this report only addressed actions taken during the year ended September 30, 2012, even though the first report of this type was due September 30, 2011. The preemption report for fiscal year 2013 was submitted on the September 30, 2013, due date.

- An annual report on the insurance industry and any other information deemed relevant by the Director – the first report was due September 30, 2011.⁸

Status: FIO released its first annual report in June 2013, 18 months after it was initially due. FIO has decided that going forward it will release its annual report in June, rather than September, so that calendar year end insurance industry data used in the report remains current.

- A report on how to modernize and improve the system of insurance regulation in the United States – due 18 months after the enactment of the Dodd-Frank Act, which was January 20, 2012.⁹

⁷ 31 U.S.C. § 313(n)(1).

⁸ 31 U.S.C. § 313(n)(2).

⁹ 31 U.S.C. § 313(p)(1).

Status: FIO released its modernization report on December 12, 2013, 23 months after it was due.

- A report describing the breadth and scope of the global reinsurance market and the critical role such market plays in supporting insurance in the United States – due no later than September 30, 2012.¹⁰

Status: Report has not been completed as of May 8, 2014.

- A report on the impact of the Nonadmitted and Reinsurance Reform Act of 2010 – due no later than January 1, 2013.¹¹

Status: FIO released the required report on the impact of the Nonadmitted and Reinsurance Reform Act of 2010 in October 2013, 10 months after it was due.

According to FIO management, the reasons that FIO missed the required deadlines vary. For example, FIO management told us that the insurance industry modernization report was highly anticipated by the insurance industry, and the report underwent an extensive review process to ensure that the information and recommendations contained within the report were not misinterpreted. They stated that the global reinsurance report has been delayed while FIO focuses resources on drafting a higher priority report by the President's Working Group on the availability and affordability of insurance for terrorism risk.¹² FIO management also stated that the delays were due, in large part, to the considerable amount of time required to identify, attract, and hire staff with the knowledge and experience in several areas of insurance regulation needed to perform its work relating to the reports.

FIO Should Improve Planning Processes

FIO has not implemented a formal planning and implementation methodology to assist management in guiding the performance of

¹⁰ 31 U.S.C. § 313(o)(1).

¹¹ Dodd Frank Act, Title V, Section 313(o)(2)

¹² 15 U.S.C. § 6701, note.

its functions. In this regard, FIO has not documented a strategy for achieving its mission or developed a comprehensive implementation plan to control the development of the key deliverables and operational processes. As a result, there is a risk that FIO may incur further delays in performing its functions and achieving the objectives FIO sets for itself.

The Office of the Assistant Secretary for Management coordinates the initial process for establishing a new office in DO and ensures that the human capital plan takes timing into account to ensure that office leadership is brought on and has the opportunity to refine the plan to accomplish the office's functions. According to a Treasury official, the procedures for starting a new office in DO vary depending on the size and scope of the mission of the new office and the strategies to accomplish the office's functions are generally adjusted by incoming leadership during the course of the standup. Treasury does not have any specific directives or other requirements which define the process for guiding the standup of a new office.¹³

FIO management told us that for them to prepare a formal strategic plan would not be consistent with other offices of the same level and size within Treasury. They noted that FIO, as a component of Treasury, would be covered under Treasury's strategic plan. Further, they told us that much of the work of FIO was determined by requests from external parties such as FSOC or by externally defined workstreams arising from their work on international issues. However, they do expect that work plans will be developed to meet FIO's strategic direction and objectives that have been further defined in the insurance industry modernization report.

We understand that Dodd-Frank does not set any time frames or deadlines for FIO to accomplish its legislative functions and that, as a component of an agency, FIO is not required to separately complete a formal strategic plan. However, the development of some form of a strategy document along with a comprehensive implementation plan detailing the workstreams needed to execute

¹³ Treasury Directive 21-01 "Organizational Changes" establishes a policy and procedure for approval of significant organizational changes within the Department of Treasury but does not address the processes that must be implemented to guide the stand-up of a new office or function required in law.

the strategy with milestones, due dates, and a mechanism to measure progress against the plan are well recognized best practices when establishing a new office.

Recommendations

We recommend that the Director of FIO:

1. Ensure that the remaining uncompleted legislatively required report is issued with deliberate speed. In addition, FIO should develop and implement processes to ensure the timely completion and submission of future reports.

Management Response

FIO is working with deliberate speed to complete its report on the global reinsurance market and its role in supporting insurance in the United States, and to improve its timely submission of future reports.

OIG Comment

Management's commitment to take these actions is responsive to our recommendation. FIO will need to record the estimated dates for completing its planned corrective actions in JAMES.

2. Develop a written document detailing FIO's strategy for achieving its functions. To facilitate the execution of this strategy, we recommend that FIO also develop a comprehensive implementation plan defining priorities, critical work streams, deliverables, milestones, due dates for efficiently and effectively developing FIO's organizational structure and business processes. FIO should also develop processes to assign accountability for the completion of tasks and measure progress against the plan.

Management Response

FIO will document its priorities and an implementation plan.

OIG Comment

Management's commitment to take these actions is responsive to our recommendation. FIO will need to record the estimated dates for completing its planned corrective actions in JAMES.

3. Provide for maintaining a record of all significant activities performed, decisions made, and actions taken.

Management Response

FIO will provide for recordkeeping.

OIG Comment

Management's commitment to provide for recordkeeping is responsive to our recommendation.

4. Determine appropriate performance measures to communicate/demonstrate FIO's accomplishments.

Management Response

FIO will develop performance measures to communicate FIO's accomplishments.

OIG Comment

Management's commitment to take these actions is responsive to our recommendation. FIO will need to record the estimated dates for completing its planned corrective actions in JAMES.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss the report, you may contact me at (202) 927-0384 or Jim Lisle, Audit Manager, at (202) 927-6345. Major contributors to this report are listed in appendix 3.

Jeffrey Dye /s/
Director, Banking Audits

The objective of this audit was to evaluate the status and effectiveness of Treasury's process to establish the Federal Insurance Office (FIO) in a manner that enables FIO to perform its functions.

To achieve the audit objective, we developed criteria using the applicable Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) sections and best practices derived from reports prepared by the U.S. Government Accountability Office¹⁴ and a consultant.¹⁵ Using these criteria, we reviewed documentation pertaining to the stand-up of FIO and interviewed key personnel. Specifically, we performed the following.

- Interviewed the Treasury Departmental Office (DO) personnel responsible for establishing FIO as well as FIO management, including: the FIO Director, FIO Senior Policy Analysts and Advisors, the Senior Advisor for Business Operations for the Office of Domestic Finance, and the then-Deputy Assistant Treasury Secretary for the Office of Financial Institutions; and,
- Reviewed, to the extent available, planning documentation related to the stand-up of FIO.
- Evaluated FIO compliance with reporting requirements defined by Dodd-Frank.

We conducted our field work from May 2012 through November 2013.

¹⁴ GAO-03-669: *Results-Oriented Cultures; Implementation Steps to Assist Mergers and Organizational Transformations*, July 2003. The report described the lessons learned from private and public sector mergers, acquisitions, and transformations to help the then-newly created Department of Homeland Security merge 22 federal agencies. Among other things, it identified as a best practice to "establish a coherent mission and integrated strategic goals..." by "adopting leading practices for results oriented strategic planning and reporting" and "set implementation goals and a timeline to build momentum and show progress from day one."

¹⁵ Booz, Allen, Hamilton report to Treasury: *Research & Analysis: Organizational Stand-ups Lessons Learned and Key Insights*, May 2010. This study was conducted to guide Treasury in the preparation and planning for the design and stand-up of the Consumer Financial Protection Bureau, and it identified best practices to support an agency through the successful road mapping, design, implementation planning and stand-up process. Among many best practices identified around planning is the need to conduct a comprehensive policy mapping exercise, perform robust strategic and tactical planning, and create implementation plans for mission critical activities.

Appendix 1
Objective, Scope, and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2 Management Comments



DEPARTMENT OF THE TREASURY WASHINGTON, D.C. 20220

May 1, 2014

Mr. James L. Lisle, Jr., CPA
Audit Manager, Office of Inspector General
Department of the Treasury
740 15th Street NW, Suite 600
Washington, DC 20220

Dear Mr. Lisle:

This letter responds to your draft audit report (Draft) regarding the establishment of the Federal Insurance Office (FIO). We appreciate the important work of the Office of the Inspector General and the opportunity to work with you and your colleagues. This letter provides FIO's official comment and reply to the Draft, supplementing earlier technical comments.

Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act created FIO within the Department of the Treasury (Treasury). In addition to issuing multiple reports (available on our web site at treasury.gov/initiatives/fio), FIO has developed a profile and important relationships within the insurance sector, both domestically and internationally. In addition, on prudential aspects of international insurance matters, FIO represents the United States at the International Association of Insurance Supervisors and in several multi-lateral and bi-lateral engagements, including the EU-U.S. Insurance Project, the U.S.-China Strategic Economic Dialogue, among others. We have built an office of 15 staff, with expertise in the insurance-related areas of regulatory policy, financial stability, and consumer issues. We also increasingly serve as a resource of insurance expertise not only within Treasury but also for third parties, including the Government Accountability Office, other Federal agencies, the Financial Stability Oversight Council, and members of Congress.

The Draft makes four recommendations. We agree with the recommendations and are taking steps to implement them by working to complete with deliberate speed our report on the global reinsurance market and its role in supporting insurance in the United States, and to improve our timely submission of future reports. We also agree to document FIO's priorities and implementation plan, to provide for recordkeeping, and to develop performance measures to communicate FIO's accomplishments.

Thank you for your effort and assistance in conducting this audit. We appreciate the professionalism and respect you and your team demonstrated through the process, and we look forward to working with your office in the future.

Sincerely,

Michael T. McRaith
Director, Federal Insurance Office

Appendix 3
Major Contributors To This Report

James Lisle, Audit Manager
Christen Janell Stevenson, Auditor-in-Charge
Olivia Scott, Auditor
Regina Morrison, Referencer

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Deputy Secretary
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